IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION

CRAIG AND CAROL BALIUS **PLAINTIFFS**

VS. **CAUSE NO. 1:07CV674-LTS-RHW**

STATE FARM VP MANAGEMENT CORP.;
STATE FARM FIRE AND CASUALTY COMPANY;
STATE FARM GENERAL INSURANCE COMPANY;
ANY STATE FARM INSURANCE COMPANY
AFFILIATE; and JOHN DOES A-Z **DEFENDANTS**

MOTION FOR CLARIFICATION OF DISQUALIFICATION ORDER

COMES NOW, the law firm of Lumpkin & Reeves, PLLC, who seeks clarification of this Court's ruling pertaining to the Katrina Litigation Group (hereinafter "KLG"). The movants request that this Honorable Court further clarify its opinion for the following reasons:

1. Lumpkin & Reeves (hereinafter "L&R") sought clarification of a ruling previously entered by the Honorable L.T. Senter disqualifying KLG and its associated attorneys from representing KLG plaintiffs in cases against State Farm styled "*Thomas McIntosh, et al. vs. State Farm Fire & Casualty Company, et al*", U.S. District Court, Southern District of Mississippi, Southern Division, Civil Action No. 1:06cv1080. As a result of that Motion to Clarify, Judge Senter entered an Order advising that L&R would not be allowed to represent any of the former KLG plaintiffs. [Docket #1193].

2. One of State Farm's law firms, Webb Sanders & Williams (hereinafter "Webb"), has deemed that said Order disqualifies L&R from involvement in any and all cases against State Farm. Part of the rationale for not allowing L&R to represent any of the KLG plaintiffs

was because Mark Lumpkin attended one deposition of a KLG plaintiff. Obviously, State Farm was aware that Mr. Lumpkin attended this deposition. It was 3 ½ months later when Webb voiced its objection regarding this case, the *Balius* case. (See correspondence dated May 15, 2008, May 23, 2008 and June 9, 2008 attached collectively as Exhibit "A").

3. L&R has represented a number of policyholders in State Farm Katrina litigation totally unrelated to KLG. These policyholders have never been represented by KLG nor have they had any affiliation with KLG.

4. Since September, 2006, Lumpkin & Reeves ("L&R") has represented Craig and Carol Balius in a claim arising from State Farm's refusal to properly investigate, evaluate and pay their wrongful claim for damages which occurred as a result of Hurricane Katrina. At the time L&R undertook representation of Craig and Carol Balius, L&R had never even contemplated being involved in any KLG cases.

5. There could be no intent to disqualify L&R from representing non-KLG policy holders whose claims pre-dated any contemplated representation of any KLG plaintiffs.

6. The Baliuses have attempted to proceed with necessary discovery in this case. However, at every turn, State Farm and its counsel have refused to cooperate. (See correspondence of March 14, 2008, March 27, 2008, March 28, 2008, April 7, 2008, April 16, 2008, April 21, 2008, May 14, 2008, May 14, 2008, and May 16, 2008 attached collectively as Exhibit "B"). The case was unsuccessfully mediated on February 20, 2008. Webb continues to use Judge Senter's ruling to delay the *Balius* case.

7. Not only has Webb refused to cooperate with L&R, it refuses to cooperate with Matt Mestayer, of the law firm of Byrd & Wiser, who entered an appearance on behalf of the Baliuses in an effort to have this matter resolved. (Please see Exhibit "A", correspondence dated June 9, 2008). State Farm and Webb are torturing the language of

Judge Senter's Order regarding non-KLG Katrina cases to stall the resolution of this non-KLG case. State Farm and Webb are attempting to arbitrarily decide who the Baliuses may hire as counsel. As evidenced by Exhibit "A" (correspondence dated June 9, 2008), Webb now arrogantly attempts to question Matt Mestayer and Byrd & Wiser's involvement. State Farm is attempting to exploit this Court's Order to continually delay the non-KLG, *Balius* case.

WHEREFORE, PREMISES CONSIDERED, the Movants respectfully request this Honorable Court enter an order clarifying that L&R is only disqualified from representing former KLG clients in claims against State Farm as a result of Hurricane Katrina claims and that L&R is qualified to represent non-KLG clients like the Baliuses.

Respectfully submitted, this the 19th day of June, 2008.

CRAIG AND CAROL BALIUS, PLAINTIFFS

By: */s/ Mark D. Lumpkin*

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CERTIFICATE OF SERVICE

I, the undersigned, do hereby certify that I have this day electronically filed the foregoing with the Clerk of the Court using the EFC system which sent notification of such filing to the following:

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This the ___19th____ day of ____June____, 2008.

/s/ Mark D. Lumpkin

MARK D. LUMPKIN